

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 LARRY D. BLACKWELL,

9 Petitioner,

10 v.

11 PATRICK GLEBE,

12 Respondent.
13

Case No. C11-5207BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

14 This matter comes before the Court on the Report and Recommendation (“R&R”) of
15 the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 17) and Petitioner
16 Larry Blackwell’s (“Blackwell”) objections to the R&R (Dkt. 18).

17 On March 17, 2011, Blackwell filed a petition for writ of habeas corpus challenging
18 his state court conviction. Dkt. 1. Blackwell asserted two grounds for relief: (1) the trial
19 court’s denial of the motion to sever trials violated Blackwell’s right to remain silent and not
20 testify and (2) the prosecutor committed misconduct by referring to Blackwell as a drug
21 dealer. *Id.*

22 On September 12, 2011, Judge Strombom issued the R&R recommending that the
23 Court deny the petition. Dkt. 17. On September 28, 2011, Blackwell filed objections. Dkt.
24 18. On October 3, 2011, the Government filed a response to the objections. Dkt. 19.


25 Upon objections to a magistrate judge’s report and recommendation, the district court
26 reviews the objected-to portions of the report and recommendation de novo. 28 U.S.C. §
27 636(b)(1). In this case, Blackwell fails to allege any specific error in the R&R and his

1 objections are essentially a reiteration of the grounds for relief in his petition (Dkt. 1) and
2 supporting memorandum (Dkt. 2). Regardless, the Court has reviewed the record and the
3 applicable case law and finds no error in the R&R. Blackwell has failed to meet his burden
4 under 28 U.S.C. 2254(d) on both grounds for relief and on his cumulative error argument
5 that was presented throughout his pleadings. Blackwell has also failed to meet his burden
6 for the issuance of a certificate of appealability.

7 Therefore, the Court having considered the R&R, Blackwell's objections, and the
8 remaining record, does hereby find and order as follows:

- 9 (1) The R&R (Dkt. 17) is **ADOPTED**;
- 10 (2) The petition (Dkt. 1) is **DENIED**;
- 11 (3) A Certificate of Appealability is **DENIED**; and
- 12 (4) This action is **DISMISSED**.

13 DATED this 18th day of October, 2011

14 
15 _____
16 BENJAMIN H. SETTLE
17 United States District Judge
18
19
20
21
22
23
24
25
26
27